

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
MEDFORD DIVISION

TERESA O'BRIEN,

Case No. 1:19-cv-01053-CL
ORDER

Plaintiff,

v.

JOSEPHINE COUNTY SHERIFF'S
OFFICE, a Department of Josephine
County, A Political Subdivision of the
State of Oregon, *et al*,

Defendants,

AIKEN, District Judge.

Magistrate Judge Mark Clarke filed his Findings and Recommendations ("F&R") (doc. 50) recommending that plaintiffs' Motion for Summary Judgment (doc. 18) should be GRANTED, and defendant's Motion to Dismiss (doc. 32) should be GRANTED in part and DENIED in part. This case is now before me. *See* 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b).

No objections have been timely filed. Although this relieves me of my obligation to perform a *de novo* review, I retain the obligation to "make an informed, final decision." *Britt v. Simi Valley Unified Sch. Dist.*, 708 F.2d 452, 454 (9th Cir.

1983), *overruled on other grounds, United States v. Reyna-Tapia*, 328 F.3d 1114, 1121–22 (9th Cir. 2003) (en banc). The Magistrates Act does not specify a standard of review in cases where no objections are filed. *Ray v. Astrue*, 2012 WL 1598239, *1 (D. Or. May 7, 2012). Following the recommendation of the Rules Advisory Committee, I review the F&R for “clear error on the face of the record[.]” Fed. R. Civ. P. 72 advisory committee’s note (1983) (citing *Campbell v. United States District Court*, 501 F.2d 196, 206 (9th Cir. 1974)); *see also United States v. Vonn*, 535 U.S. 55, 64 n.6 (2002) (stating that, “[i]n the absence of a clear legislative mandate, the Advisory Committee Notes provide a reliable source of insight into the meaning of” a federal rule). Having reviewed the file of this case and Magistrate Judge Clarke’s order, I find no clear error.

Thus, the Court adopts Magistrate Judge Clarke’s F&R (doc. 50) in its entirety. Defendant’s Motion to Dismiss (doc. 32) is GRANTED in part and DENIED in part as outlined in the F&R. Plaintiff granted leave to file a Second Amended Complaint within 30 days of this order.

IT IS SO ORDERED.

Dated this 26th day of May 2020.

/s/Ann Aiken
Ann Aiken
United States District Judge